

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 4617 of 1998

Between:

Thota Ravi Kumar S/o Thota Sadanadam
R/o H.No.271/SD Bhagatsingh Nagar, Ramakrsihnapur,
Mandamarri Mandal, Adilabad District.

... PETITIONER

AND

- 1 Conservator of Forests,
Adilabad Circle, Adilabad District.
- 2 Divisional Forest Officer,
Ballampally, District Adilabad.
- 3 Forest Range Officer,
Kushnapalli, District Adilabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, or Writs, order or direction declaring and setting aside the order dt./16-2-98 passed by the 1st respondent in his file Rc.No.922/98/M3 Confirming the order dt.24-12-97 passed by the 2nd respondent vide proceedings No.13/KDR/97-98, as the same is illegal, arbitrary and violative of principles of natural justice.

Counsel for the Petitioner: MR.NAZEER KHAN

Counsel for the Respondents: GP FOR FORESTS

The Court made the following Order:

Petitioner is the owner of a Jeep bearing No.MH-31-G-6031, which was involved in a forest offence, transporting 56 teak wood planks and sizes 0.502 Cmt. in the year 1997. Accordingly, the material was seized and POR.No.85/64, Dt.30-11-1997 for the value of Rs.10,752/- was issued under Sections 20 and 29 of the Andhra Pradesh Forest Act, 1967 (for short 'the Act').

2. The Divisional Forest Officer, Bellampally who conducted enquiry passed orders in Proc.No.13/KOR/97-98, Dt.24-12-1997 holding that it was established that the owner is not involved in the commission of offence. Since the owner came forward to compound the offence, he imposed compounding fee of Rs.43,008/- (1+3 times) including confiscating the material to the Government and released the vehicle in favour of the petitioner subject to the payment of compounding fee. Aggrieved the by the same, petitioner filed appeal to the Conservator of Forests, Adilabad for reducing the penalty, which was rejected and the order of the Divisional Forest Officer-second respondent was confirmed. Questioning the same, the present Writ Petition has been filed.

3. Learned counsel for the petitioner contends that the petitioner was not in the knowledge of the offence, but however came forward to compound the offence to get the vehicle released. Imposing penalty of 3 times the value of the goods is arbitrary and illegal.

4. On the other hand, learned Assistant Government Pleader appearing on behalf of the respondents contends that it is the discretion of the second respondent-Divisional Forest Officer, who compounded the offence since the Act and Rules provide that the compounding fee shall not be four times more than

the value of the goods and the same is within the permissible limits. So the exercise of discretion cannot be said to be arbitrary or illegal since the second respondent-Divisional Forest Officer himself, in his proceedings dated 24-12-1997 has taken note that the owner was not in the knowledge of the commission of offence and there is no other finding that the said vehicle was involved in any other offence earlier.

5. In view of the same, ends of justice will be met if the penalty is of compounding fee is fixed at 1+1 times of the value of the timber involved in the offence. On petitioner paying such amount within a period of two months from the date of this order, respondents are directed not to initiate any further proceedings against him and all further proceedings shall stand terminated.

The Writ Petition is accordingly disposed of. No costs.

A.

GOPAL REDDY, J

September 7, 2004

MRR

To:

- 1 Conservator of Forests,
Adilabad Circle, Adilabad District.
- 2 Divisional Forest Officer,
Ballampally, District Adilabad.
- 3 Forest Range Officer,
Kushnapalli, District Adilabad.

4 Two C.C.s to the G.P for Forests, High Court Buildings,

Hyderabad (OUT.

